

DRAFT

**BOARD OF OPTOMETRY
BOARD MEETING
AUGUST 6, 2008**

TIME AND PLACE: The meeting was called to order at 1:15 p.m. on Wednesday, August 6, 2008 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 3, Richmond, VA.

PRESIDING OFFICER: David H. Hettler, O.D, President

MEMBERS PRESENT: Paula H. Boone, O.D.
Gregory P. Jellenek, O.D.
Jonathan R. Noble, O.D.
W. Ernest Schlabach, O.D.
Jacquelyn S. Thomas, Citizen Member

STAFF PRESENT: Eric A. Gregory, Assistant Attorney General, Board Counsel
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Emily Wingfield, Chief Deputy Director
Elaine Yeatts, Senior Regulatory Analyst
Carol Stamey, Operations Manager

OTHERS PRESENT: Bo Keeney, VOA
Bruce Keeney, VOA
Fred Goldberg, O.D., VOA
Gerald Neidigh, Richmond Optometric Society
Shannon Franklin, O.D., Shendandoah Valley Optometric Society
Betty Graumlich, Esquire, NAOO

QUORUM: With six members of the Board present, a quorum was established.

AGENDA: The order of the agenda was revised as follows: the ARBO meeting report was moved to follow the Department Director's Report and the report of the Legislative/Regulatory Review Committee was moved to be presented under the Committee Reports.

PUBLIC COMMENT: **Proposed Continuing Education Regulations**
Fred E. Goldberg, President, VOA, spoke in opposition of the requirement that eight (8) of the required sixteen (16) hours of continuing education (CE) be COPE approved. He noted that ARBO is still in the discussion stage regarding its COPE standards and voiced concern that the Board was embracing unknown standards. Additionally, Dr. Goldberg expressed

concern regarding access to CE and costs to licensees. Dr. Goldberg requested that the Board remove any requirement for mandatory COPE approved continuing education.

Shannon Franklin, O.D., President, Shenandoah Valley Optometric Society, presented comment in opposition of mandatory COPE required CE's. She noted that military courses are not COPE approved and voiced concerns regarding the cancellation or changes to Fall courses or instructors.

Gerald Neidigh, O.D., President, Richmond Optometric Society, presented comment in opposition to require eight (8) hours of mandatory COPE approved CE. He voiced concerns regarding undetermined COPE standards, educational grants, guarantee of CE course quality, course and/or speaker changes, and access and cost to licensees. Dr. Neidigh requested that the Board remove the requirement for eight (8) hours of mandatory COPE approved CE.

APPROVAL OF MINUTES:

On properly seconded motion by Dr. Jellenek, the Board voted unanimously to approve the minutes of the May 9, 2008 meeting.

DEPARTMENT DIRECTOR'S REPORT:

Ms. Wingfield congratulated Dr. Schlabach and Dr. Jellenek on their board member reappointments.

Ms. Wingfield also introduced the Board's new counsel, Eric A. Gregory.

Budget and Travel

Ms. Wingfield reported that the agency's budget was good; however, restrictions on travel and discretionary spending remain in effect.

Key Performance Measures

Ms. Wingfield reported that significant progress had been achieved in the Agency's Key Performance Measures with the assistance of Neal Kauder, VisualResearch, Inc. Further, she stated that Ms. Ryals would be disseminating a letter to all board members reflecting the new analysis and measures detailing the agency's current progress.

DISCUSSION ITEMS:

ARBO Meeting Update

Dr. Schlabach presented a brief report of his attendance at the ARBO meeting in June 2008. The report is incorporated into the minutes as Attachment 1.

**CONSIDERATION OF
AMENDMENTS TO
REGULATIONS:**

Contact Lens Applied Medications

Dr. Carter apprised the Board of a question forwarded to the board regarding whether an optometrist could prescribe and dispense drug coated contact lenses. After consulting with the Board of Pharmacy, it was determined that optometrists cannot dispense drugs and pharmacists cannot dispense contact lenses. Dr. Carter noted that this issue could be a future agenda item for consideration.

Notice of Periodic Review for Chapter 20

Ms. Yeatts reported that a periodic review of Chapter 20 was due to be conducted. She requested that the Board approve a notice to mail to its current PPG list. Ms. Yeatts stated that public comment will be accepted from September 1, 2008 through October 1, 2008 for consideration by the Legislative/Regulative Review Committee.

On properly seconded motion by Dr. Jellenek, the Board voted unanimously to publish a Notice of Periodic Review of Regulations for Chapter 20.

Adoption of Exempt Regulations for Public Participation Guidelines (PPG's)

Ms. Yeatts informed the Board that the Department of Planning and Budget had adopted a model set of PPG's for all agencies. Further, Ms. Yeatts stated that the model PPG's could be adopted as an exempt item or modified and adopted as a fast-track action.

On properly seconded motion by Dr. Boone, the Board voted unanimously to adopt the model PPG as an exempt action and to repeal the current regulation for the PPG's, Chapter 10.

Re-consideration of Proposed Regulations for Continuing Education

Ms. Yeatts reported that the Governor's office did not agree with the Board that there was sufficient justification for all of the amendments proposed. Ms. Yeatts advised the Board that it could withdraw the proposed regulations, *in toto* and go back to Committee or it could resubmit with the more non-controversial proposed amendments.

On properly seconded motion by Dr. Boone, the Board voted three in favor, two nays and one abstention to resubmit the proposed CE Regulations with the following changes: 1) deletion of face-to-face or real-time interactive hours, 2) change the required TPA hours back to two, and 3) remove the requirement of mandatory COPE approved CE hours.

COMMITTEE REPORTS:**Legislative/Regulatory Review Committee**

Dr. Hettler reported that the Committee had met and that the matter under consideration was tabled.

Newsletter Committee

Each of the board members was assigned newsletter articles. Dr. Hettler requested that the written articles be submitted to the Board office by Labor Day.

Credentials Committee

Dr. Boone reported that the Committee had reviewed five licensure applications.

Professional Designation Committee

Dr. Boone reported that the Committee had reviewed two professional designation applications.

**EXECUTIVE DIRECTOR'S
REPORT:****Budget**

Dr. Carter reported that the budget ended the fiscal year with over \$195,000 cash on hand.

With regard to licensure fees, Dr. Carter informed the Board that after October 3, 2008 the two-year licensure renewal fee reduction to reduce excess revenue would no longer be in effect. She further stated that the renewal notices for this year will reflect the fees that were in effect prior to October 2006.

Statistics

Dr. Carter presented a brief summary of the board's disciplinary performance standards and a statistical analysis of the licensee and case counts.

PRESIDENT'S REPORT:

Dr. Hettler congratulated Dr. Jellenek and Dr. Schlabach on their board reappointments.

NEW BUSINESS:

Dr. Schlabach requested that the Board consider the topic of OE Tracker. The matter was assigned to the Legislative/Regulatory Review Committee. Additionally, the Committee will hold a public hearing for consideration of public comment on the review of Chapter 20.

ADJOURNMENT:

The Board concluded its meeting at 2:15 p.m.

David H. Hettler, O.D.
President

Elizabeth A. Carter, Ph.D.
Executive Director